

DISCIPLINARY ACTION

PRIVATE ADMONITION, Board Case No. 2012-0093-B. Date: October 26, 2012.

A Delaware attorney was privately admonished for violations of the Delaware Lawyers' Rules of Professional Conduct. A panel of the Preliminary Review Committee ("PRC") offered the sanction of a private admonition, with conditions, to which the attorney consented.

The attorney, a member of the bar of another state, sought admission *pro hac vice* in litigation pending in the Court of Chancery ("Court") in which the attorney represented plaintiffs ("Litigation"). In the Motion for Admission *Pro Hac Vice* filed in the Court, the attorney disclosed affiliation with one law firm ("First Firm"), and listed the First Firm on all filings on plaintiffs' behalf in the Litigation. The attorney was, however, also head of litigation of another law firm ("Second Firm"). The Second Firm had an arguable conflict of interest with the plaintiffs the attorney represented. Several months after commencement of the Litigation, counsel representing defendants in the Litigation received an email from the attorney sent from the Second Firm's email, thus learning of the attorney's affiliation with the Second Firm. Although the Court denied defendants' motion to disqualify the attorney and revoke the attorney's admission *pro hac vice*, the Court addressed the "high level of conduct including, importantly, candor with the Court" expected of attorneys granted the "privilege of *pro hac vice* admission." The Court concluded the attorney "ignored the obvious potential conflict" and "failed to make the kind of full and candid disclosures [the] Court expects of attorneys practicing within its jurisdiction."

The attorney's failure to identify affiliation with the Second Firm in the Motion for Admission *Pro Hac Vice* constituted a "circumstance where failure to make a disclosure is the equivalent of an affirmative misrepresentation" in violation of **Rule 3.3(a)(1)**. As a condition of

the private admonition, the attorney consented to disclose all law firm affiliations in every future motion for admission *pro hac vice* filed in any court in Delaware.